

REMARKS

The rejection of claims 1-8 under 35 USC §102(e) in view of U.S. Patent No. 6,650,624 (Quigley) is respectfully traversed on the grounds that the Quigley patent fails to disclose or suggest a transceiver in which the modulation method is adaptively selected based on a difference between respective transmission powers of the transceiver and a counterpart transceiver. Instead, the Quigley patent discloses a transceiver is elected based on channel quality parameters such as signal-to-noise ratio (SNR) and channel power (which is not the same as the claimed transmission power differential).

By way of review, the present invention, as defined in claim 1, is directed to a transceiver capable of adaptively selecting a modulation method based not only on a transmission channel condition such as a carrier to noise (C/N) ratio or a delay spread, but also on a difference between transmission power of the transceiver and that of a transmitter-receiver (i.e., a counterpart transceiver). By considering the difference between respective transmission powers of communicating transceivers, an appropriate modulation method can be determined *even for the case of communications between transceivers having different transmission powers*.

The Quigley patent is silent about the possibility that the communicating transceiver might have a different transmission power, and does not consider or even remote suggest the possibility that the modulation method should depend on the transmission power difference, as claimed. To the contrary, the Quigley patent is directed to a device capable of selecting a modulation method based **solely on channel quality parameters** such as a signal-to-noise ratio (SNR) and a channel power. This “channel power” does not correspond to the transmission power difference of the present invention since it is not a “difference” between transmission powers of respective transceivers. As a result, it appears that the device of Quigley et al. cannot be employed to a communication system using asymmetric uplink and downlink transmission powers, whereas the present invention is specifically directed to, and positively claims, such a transceiver.

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The prior art made of record but not applied has also been reviewed, and it is respectfully submitted that U.S. Patent Nos. 6,643,469 (Gfeller) and 6,097,703 (Larsen) also fail to teach a transceiver capable of selecting a modulation method based on a difference between respective transmission powers of communicating transceivers, as claimed, for the purpose of communicating between the transceivers having different transmission powers.

Because none of the references of record discloses or suggests all features recited in claim 1, withdrawal of the rejection under 35 USC §102(e) and an indication of allowability of each of claims 1-8 is respectfully requested. If the Examiner feels that any issues remain that require discussion, he is invited to contact applicant's undersigned attorney at any time to resolve the issues.

Having thus overcome each of the rejections made in the Official Action, expedited passage of the application to issue is requested.

Respectfully submitted,

BACON & THOMAS, PLLC

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